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Aug 03 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable Debra R. McCaslin, Circuit Court Judge
Appellate Case No. 2025-000368

THE STATE,

Appellant,

vs.

CHAD EUGENE GIBBS,

Respondent.

**RETURN TO
RESPONDENT’S PETITION FOR APPEAL BOND**

Appellant (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

In February of 2020, Respondent Chad Eugene Gibbs was arrested following an investigation into allegations of sexual misconduct involving his fifteen-year-old stepdaughter. In August of 2020, the Lexington County Grand Jury indicted Gibbs for four counts of first-degree sexual exploitation of a minor, two counts of third-degree sexual exploitation of a minor, one count of attempted first-degree sexual exploitation of a minor, one count of criminal solicitation of a minor, three counts of third-degree criminal sexual conduct with a minor, and two counts of disseminating obscene material to a person under the age of eighteen. On February 24, 2025, Gibbs appeared in the Lexington County Court of General Sessions and—

based on negotiations with the State—entered guilty pleas to two counts of second-degree sexual exploitation of a minor before the Honorable Debra R. McCaslin, circuit court judge. The plea judge accepted Gibbs’s guilty pleas and sentenced him to an eight-year term of imprisonment. In addition to that, the plea judge—at the request of Gibbs’s defense counsel and over opposition from the State—awarded Gibbs credit for time served in the amount of 1,831 days for time Gibbs spent while free on bond and subject to a monitoring requirement but *not* a house arrest requirement. The State then timely filed and perfected an appeal.

II.

On appeal, this Court—following briefing—issued an unpublished decision reversing the plea judge’s award of 1,831 days of credit for time served to Gibbs and remanding the matter to the circuit court for the imposition of a sentence consistent with its decision. State v. Gibbs, Op. No. 2026-UP-365 (S.C. Ct. App. filed July 15, 2026). Following that decision, Gibbs filed both a petition for rehearing and a petition seeking an appeal bond. At present, Gibbs’s petitions currently remain pending before this Court.

III.

Through his appeal bond petition, Gibbs asks this Court to grant him an appeal bond pending the resolution of the State’s appeal. As support for that request, Gibbs maintains he previously successfully complied with strict pre-trial bond condition and “is ready to do so again.” Gibbs further maintains he is an “excellent candidate for bond pending appeal” because he had no record prior to being convicted of multiple counts of second-degree sexual exploitation of a minor, he regularly attends church, he is currently employed, he resides with and supports his wife, he has acknowledged “his wrong” and apologized to his victim, and he has a serious chance of obtaining reversal “if this Court is inclined to view the move to Pennsylvania and

approved trips to Massachusetts and Maine as a work exception to a normal house arrest program[.]”

IV.

Pursuant to South Carolina law, a criminal defendant “may” potentially be granted bail during the pendency of an appeal following a conviction and shall “remain in confinement” until any bond conditions set by the court have been satisfied. S.C. Code Ann. § 18-1-80; S.C. Code Ann. § 18-1-90. Importantly though, a defendant has no right to an appeal bond, and a court ordinarily will only issue one with “extreme caution.” Nichols v. Patterson, 202 S.C. 352, ___, 25 S.E.2d 155, 156 (1943) (citation and internal quotations omitted). When deciding whether to exercise the discretion to grant an appeal bond, a court should consider the following factors: (1) the probability of success on appeal; (2) the nature and seriousness of the criminal offense committed; (3) the danger the defendant may pose to the community if he or she is released; (4) the likelihood the defendant may forfeit bail or flee if released; (5) the character and circumstances of the defendant; and (6) the defendant’s “personal attitude toward society and government.” Id.

V.

With all that in mind, Gibbs cannot currently be granted an appeal bond releasing him from confinement because he is no longer in the State’s custody or control. See State v. Workman, 274 S.C. 341, 343, 263 S.E.2d 865, 866 (1980) (“The purpose of an appeal bond in a criminal case is *to allow the defendant to go free during the pendency of the appeal* while assuring his presence upon affirmance of his conviction or as the court may otherwise direct.” (emphasis added)). Instead, as reflected in information provided by the South Carolina Department of Corrections, Gibbs—due to the 1,831 days of credit for time served that were

improperly awarded to him—was determined to have satisfied his sentence by the time he was delivered to the custody of the Department of Corrections, and, as a result, he was fully released from confinement well over a year ago on March 4, 2025.¹

Nevertheless, since Gibbs is facing a real prospect of renewed incarceration in the event this Court’s decision becomes final, Gibbs—who is presently residing out of state and in Pennsylvania—now has a strong incentive to abscond or fail to return to South Carolina at the end of the appellate proceedings in his case. Therefore, in the event this Court determines the grant of an appeal bond as requested by Gibbs is warranted, the State has no objection to this Court imposing reasonable bond conditions to ensure Gibbs appears for resentencing if and when necessary. See id. (explaining an appeal bond serves in part to assure a criminal defendant’s presence when a criminal conviction is affirmed); cf. Rule 243(k), SCACR (“If bail is granted, the court may require the posting of a bond and impose other conditions.”). Reasonable bond conditions would include setting bond in a dollar amount this Court believes will be sufficient to ensure compliance with all bond conditions, requiring Gibbs to again submit to electronic monitoring, and precluding Gibbs from changing his out-of-state address without prior court approval.

WHEREFORE, Respondent prays this Court will take whatever actions it believes are appropriate in response to Gibbs’s Petition for Appeal Bond; impose reasonable bond conditions in the event it determines the grant of an appeal bond is warranted; and grant such other and further relief as the Court may deem just and proper.

¹ A letter sent by Deputy General Counsel Christina C. Bigelow from the South Carolina Department of Corrections confirming Gibbs is no longer in the State’s custody has been included with the State’s return as Attachment “A.”

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Senior Assistant Attorney General



By: _____
Mark R. Farthing
S.C. Bar Number 76901

August 1, 2026

ATTACHMENT “A”



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Office of General Counsel

HENRY McMASTER, Governor
JOEL E. ANDERSON, Interim Director

OFFICE OF GENERAL COUNSEL

July 31, 2026

Mark R. Farthing, Esquire
S.C. Attorney General's Office
Post Office Box 11549
Columbia, South Carolina 29211

RE: Chad Eugene Gibbs, Former SCDC # 396600

Dear Mr. Farthing:

Chad Eugene Gibbs was sentenced to two concurrent eight-year sentences on February 24, 2025. The county brought Mr. Gibbs to SCDC on March 3, 2025. Because Mr. Gibbs had 1,831 days of jail time credit, it was determined that his sentences were already satisfied and he was released on the following day, March 4, 2025. Accordingly, Mr. Gibbs is no longer in SCDC custody, and he was not released to any type of supervision in the community. His sentences were fully completed when he left SCDC custody on March 4, 2025.

Please let me know if you need any further information.

Sincerely,

Christina C. Bigelow
Deputy General Counsel
South Carolina Department of Corrections

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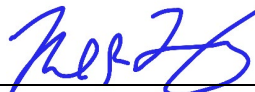
Respondent.

PROOF OF SERVICE

I, Mark R. Farthing, certify I have served the within Return to Respondent's Petition for Appeal Bond on Respondent by sending an electronic copy via email to the address listed in AIS for the following individual:

James Todd Rutherford, Esquire
todd@rutherford.law

I further certify all parties required by Rule to be served have been served.
This 1st day of August, 2026.



MARK R. FARTHING
Senior Assistant Deputy Attorney General
Office of the Attorney General